

EXHIBIT 1

From: [Mahmoud, Samrah](#)
To: [Chen, David](#)
Cc: [Nonna, John](#); [foont foontlaw.com](#); [Thomas, Jack](#); [Allison, Steven D.](#); [Chen, Sheila Z.](#); [Carey, Sean](#)
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester
Date: Tuesday, March 15, 2022 5:22:41 PM

Thanks, David. We will get this on file tonight or tomorrow morning.

As to the briefing timing, we agree with your understanding based on the Court's Minute Order, ECF No. 34.

Samrah Mahmoud

Partner

troutman pepper

Direct: 949.622.2751

samrah.mahmoud@troutman.com

□ □ -

From: Chen, David
Sent: Tuesday, March 15, 2022 12:00 PM
To: Mahmoud, Samrah
Cc: Nonna, John ; foont foontlaw.com ; Thomas, Jack ; Allison, Steven D. ; Chen, Sheila Z. ; Carey, Sean
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

EXTERNAL SENDER

The language about the Court denying the TRO was in the last draft we sent yesterday; we didn't think it was controversial as you didn't say anything about it.

Anyway, we've signed this latest version; only thing I changed was a line space, and adding the word "and" after one of the clauses where it was missing. Feel free to countersign and file.

As you are not withdrawing your PI motion, our understanding is that our opposition is due April 1st and your reply is due April 11th; please let us know if you have a different understanding.

Best,

Dave

David H. Chen

Deputy County Attorney, Appeals

Office of the Westchester County Attorney

148 Martine Avenue, Suite 600

White Plains, NY 10601

(914) 995-3616

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your system.

From: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>

Sent: Tuesday, March 15, 2022 1:55 PM

To: Chen, David <dhca@westchestergov.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Allison, Steven D. <Steven.Allison@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>; Carey, Sean <stca@westchestergov.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Thanks, David. Most of your changes are acceptable. While I am sure unintentional, your redline did not track all of your latest changes, including an addition about the Court denying the TRO. Please ensure next time that all changes are tracked.

We accepted all changes and tracked any further changes. In light of your addition regarding the TRO and to make the record complete, we have added in a Whereas clause that quotes from the Court's Minute Order (ECF No. 34) to provide context. We think this should be non-controversial since it comes from the Court order but the alternative is to omit both this and the last Whereas before the "In light of the foregoing" language.

Let us know if this is acceptable and we can get it on file today. We will then separately file something to notify the Court that we intend to keep our Preliminary Injunction hearing on calendar. Thanks,

Samrah Mahmoud

Partner

troutman pepper

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□ □ -

From: Chen, David <dhca@westchestergov.com>

Sent: Tuesday, March 15, 2022 8:50 AM

To: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Allison, Steven D. <Steven.Allison@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>; Carey, Sean <stca@westchestergov.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

EXTERNAL SENDER

Good morning all –

We have reconsidered our position, particularly in light of the judge's just-filed order, and are willing to enter into the attached stipulation, which no longer includes the dismissal of Plaintiffs' PI motion.

Note that the attached also includes a few very minor clarifications; to foreground those changes, a redlined copy is also attached.

We have already signed; if Plaintiffs are in agreement, please feel free to countersign and file.

Sincerely,

Dave

David H. Chen

Deputy County Attorney, Appeals

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White Plains, NY 10601

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From: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>

Sent: Tuesday, March 15, 2022 12:38 AM

To: Chen, David <dhca@westchestergov.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>;

Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>;

Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

David,

I appreciate our call this afternoon, but I believe we are still too far apart on the issues. Please see attached for a proposed joint submission to the Court along the lines we discussed this afternoon. Please let us know if you have any changes.

Thanks,

Samrah Mahmoud

Partner

troutman pepper

Direct: 949.622.2751

samrah.mahmoud@troutman.com

□ □ -

From: Mahmoud, Samrah

Sent: Monday, March 14, 2022 2:44 PM

To: Chen, David <dhca@westchestergov.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>;

Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>;

Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Subject: FW: Delux Public Charter, LLC et al v. County of Westchester

David,

So are you suggesting that you will seek to enforce the TUP and Policy No. 1 against our clients unless we agree to drop our Preliminary Injunction? Again, we understood that the Court dismissed the TRO on the promise that you would not be enforcing the TUP and Policy No. 1 without a valid court order. The County did not state at the hearing that it would only forego enforcing Policy No. 1 or the TUP against Plaintiffs if we agreed to forego our right to pursue a preliminary injunction. Nor did the Court require us to forego the preliminary injunction and instead Judge Halpern asked us to file something today as to whether we intended to pursue a preliminary injunction "in light of the parties' Stipulation to be so ordered." ECF No. 34.

Again, at this time, in order to withdraw the preliminary injunction we would require agreement that the County would not enforce Policy No. 1 or the TUP without a final, valid court order. Otherwise, we believe the stipulation as you proposed does not obviate the need for a preliminary injunction motion.

Thanks,

Samrah Mahmoud

Partner

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Direct: 949.622.2751

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□ □ -

From: Chen, David <dhca@westchestergov.com>

Sent: Monday, March 14, 2022 2:32 PM

To: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>;

Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>;

Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

EXTERNAL SENDER

We have a different take on Friday's conference and order. The Court struck your request for a TRO on its own merits, so it's not something you can now bargain away. The Court further suggested, based on our representations, that we find language that would ALSO obviate the need for your PI motion. We believe the attached does just that -- and note that we reinserted, at your request, the language requiring us to inform and enforce the Stip as to our agents, and also made clear that the withdrawal of your motion was without prejudice.

Those concessions are more than fair; our own, separate PI motion before the state court is not and never has been on the table.

David H. Chen

Deputy County Attorney, Appeals

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From: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>
Sent: Monday, March 14, 2022 5:07 PM
To: Chen, David <dhca@westchestergov.com>
Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>; Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

David,

Then we suggest striking the part about the Preliminary Injunction and leaving it at a valid court order (rather than final) per the attached. As mentioned on the phone, we view the Stipulation as linked to the TRO and not as part of a condition of us dropping the Preliminary Injunction under the Court's Order.

If the attached is acceptable then we have an agreement and we will separately notify the Court that we were unable to reach agreement on withdrawing the PI at this time.

Thanks,

Samrah Mahmoud

Partner

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From: Chen, David <dhca@westchestergov.com>
Sent: Monday, March 14, 2022 1:58 PM
To: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>
Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>; Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

EXTERNAL SENDER

Thank you Samrah.

We can agree to your first proposal – that your withdrawal of the PI motion is without prejudice – but not your second, i.e. that our stip remain in place through a possible appeal.

Our respective PI motions are not linked, and nothing in the court's order suggested that they should be.

Feel free to call me at the # below to discuss.

Best,

Dave

David H. Chen

Deputy County Attorney, Appeals

Office of the Westchester County Attorney

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From: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>

Sent: Monday, March 14, 2022 4:44 PM

To: Chen, David <dhca@westchestergov.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>;

Carey, Sean <stca@westchestergov.com>; Allison, Steven D. <Steven.Allison@troutman.com>;

Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Thank you. See our revised draft.

As you will see in the draft, if we are to drop the Preliminary Injunction at this time it would need to be (1) without prejudice; and (2) subject to the agreement that this stipulation would be in place through a final, valid court order, i.e., through an appeal. Otherwise, we cannot agree to not pursue our Preliminary Injunction when the County is still pursuing theirs.

Thanks,

Samrah Mahmoud

Partner

troutman pepper

Direct: 949.622.2751

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From: Chen, David <dhca@westchestergov.com>

Sent: Monday, March 14, 2022 1:01 PM

To: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>; Allison, Steven D.

<Steven.Allison@troutman.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Chen, Sheila Z.

<Sheila.Chen@troutman.com>

Cc: Nonna, John <JNonna@westchestergov.com>; foont foontlaw.com <foont@foontlaw.com>;

Carey, Sean <stca@westchestergov.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Importance: High

EXTERNAL SENDER

Samrah and Steven –

Good speaking with you earlier – attached please find a redline in Word of what you send, along with a .pdf clean copy. As John noted, it seems that we are in fact largely in agreement here.

Please note that we removed Brian as a signatory given that Avports will be addressed in a second, subsequent stip.

Best,

Dave

David H. Chen

Deputy County Attorney, Appeals

Office of the Westchester County Attorney

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From: Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>

Sent: Monday, March 14, 2022 12:09 PM

To: Carey, Sean <stca@westchestergov.com>

Cc: Nonna, John <JNonna@westchestergov.com>; Thomas, Jack <Jack.Thomas@troutman.com>; Allison, Steven D. <Steven.Allison@troutman.com>; foont foontlaw.com <foont@foontlaw.com>; Chen, David <dhca@westchestergov.com>; Chen, Sheila Z. <Sheila.Chen@troutman.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Sean,

See attached with our revised stipulation. As I noted last week before you sent your stipulation, we were in the process of drafting one. The attached attempts to combine and revise the two stipulations and adds in Mr. Foont's changes from over the weekend. We are still considering whether to dismiss the PI and the request to dismiss Ms. Gasparri and Avports. Should we decide to dismiss Ms. Gasparri and Avports, that will likely need to be the subject of a separate stipulation.

Thanks,

Samrah Mahmoud

Partner

troutman pepper

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samrah.mahmoud@troutman.com

□ □ -

From: Carey, Sean <stca@westchestergov.com>
Sent: Monday, March 14, 2022 6:41 AM
To: foont foontlaw.com <foont@foontlaw.com>; Chen, David <dhca@westchestergov.com>;
Mahmoud, Samrah <Samrah.Mahmoud@troutman.com>; Thomas, Jack
<Jack.Thomas@troutman.com>
Cc: Nonna, John <JNonna@westchestergov.com>
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester
EXTERNAL SENDER

Attached please find an updated version of the stipulation that the County circulated at approximately 5:30 pm (Eastern Time) last Friday.

The updated version incorporates Mr. Foont's proposed changes, specifically references Westchester County Law § 712.462, and identifies the relevant FBOs.

Sean Carey
Senior Assistant County Attorney
Westchester County Attorney's Office
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f: (914) 995-3132
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From: foont foontlaw.com <foont@foontlaw.com>
Sent: Sunday, March 13, 2022 1:22 PM
To: Chen, David <dhca@westchestergov.com>; Samrah Mahmoud
(samrah.mahmoud@troutman.com) <samrah.mahmoud@troutman.com>;
jack.thomas@troutman.com
Cc: Nonna, John <JNonna@westchestergov.com>; Carey, Sean <stca@westchestergov.com>
Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Good afternoon.

Thank you for drafting and sharing the stipulation.

I have two minor comments. First, on the last line of the second Whereas clause, please delete the word "general." I serve as their counsel from my law firm. Second, below my signature block please add, "Counsel for Defendants April Gasparri, in her official capacity as Airport Manager, and Avports LLC."

I am available as needed today to discuss this. Please note that I teach tomorrow morning and will, therefore, not be available from about 8:30 until 11:30 AM. Please, however, be assured that I will respond promptly thereafter if contacted during that time.

Have a good day.

Sincerely,

Brian

Brian E. Foont

The Foont Law Firm, LLC

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From: Chen, David <dhca@westchestergov.com>

Sent: Friday, March 11, 2022 5:28 PM

To: foont foontlaw.com <foont@foontlaw.com>; Samrah Mahmoud
(samrah.mahmoud@troutman.com) <samrah.mahmoud@troutman.com>;
jack.thomas@troutman.com

Cc: Nonna, John <JNonna@westchestergov.com>; Carey, Sean <stca@westchestergov.com>

Subject: RE: Delux Public Charter, LLC et al v. County of Westchester

Good afternoon everyone –

It was good speaking with you all on the telephone conference today.

We have attached a proposed stipulation for your consideration. Please let us know your thoughts by Monday morning in light of the Court's deadline.

Best regards,

Dave

David H. Chen

Deputy County Attorney, Appeals

Office of the Westchester County Attorney

148 Martine Avenue, Suite 600

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From: foont foontlaw.com <foont@foontlaw.com>

Sent: Friday, March 11, 2022 4:23 PM

To: Samrah Mahmoud (samrah.mahmoud@troutman.com) <samrah.mahmoud@troutman.com>;
jack.thomas@troutman.com

Cc: Chen, David <dhca@westchestergov.com>; Nonna, John <JNonna@westchestergov.com>

Subject: Delux Public Charter, LLC et al v. County of Westchester

Good afternoon.

Thank you for speaking with me just now.

Following up on our discussion, attached please find the agreement between Avports and the County of Westchester. Avports LLC is an ultimate assignee/successor of the Johnson Controls World Services, Inc. referenced in the document. April Gasparri is an employee of Avports LLC (as also noted in her affidavit).

As discussed in the conference with the judge, Avports is an agent of the county and does not exercise independent judgment in connection with the matters at issue in the present litigation.

Given this, I would appreciate you having Avports and Ms. Gasparri dismissed as defendants.

Have a good weekend.

Sincerely,

Brian

Brian E. Foont

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